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Report of the Task Force on the Subdivis
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REPORT OF THE TASK FORCE ON THE SUBDIVISION OF LAND ADJACENT TO WATER BODIES

INTRODUCTION

In the spring of 1972, realizing that the past development of 'summer' cottages adjacent particularly to many of our lakes in Alberta are facing the province with critical problems of restricted public access, water and land pollution, congested lakes and lakesides and other related problems. Appreciating that there is a growing trend to create new such development in an increasing volume, it becomes necessary to evaluate the existing situation and the effects on the environment, good and bad of the past, and propose guidelines to aid in the planning for such future development in a more comprehensive manner.

Also, with the Department of the Environment being requested to make recommendations to the statutory subdivision approving authorities with respect to applications to subdivide land for these purposes on an increasingly unprecedented scale, it also becomes necessary to explore the interdepartmental, intergovernmental mechanics of processing such applications in order to arrive at an efficient method whereby comprehensively considered decisions result with respect to each application.

To this end, the Provincial Planning Board and the Conservation and Utilization Committee jointly established a task force to undertake this work. The following members comprise the task force:

Department of Municipal Affairs - Noel Dant, Chairman.

Department of the Environment
- L. D. M. Sadler
  domestic water & solid waste disposal
- R. N. Briggs
  pollution control
- D. G. Harrington
  land conservation guidelines
- A. Mazuda
  water quality
- C. Primus
  water resources development

Department of Highways and Transport	- D. D. Kuchinski traffic planning
Department of Telephones and Utilities	- L. Collins . rural electrification
Department of Lands and Forests	- T. Drinkwater provincial parks
Alternates	J. Polonuk for N. Dant
	B. Patterson for D. G. Harrington
	G. Nielson for L. D. M. Sadler
Recording Secretary	- W. Krause Provincial Planning Branch Department of Municipal Affairs

The terms of reference within which the task force was required to conduct its studies is as follows:

1. To investigate the scope, effectiveness and comprehensiveness of such referral machinery available under The Subdivision and Transfer Regulation (section 7) with special attention given to the total time within which an application to subdivide could have a decisiion made on it from such a system of processing subdivision applications and to make recommendations in respect of these items;
2. That some measure of consistency based on maximum and minimum criteria be built into reference relating to similar kinds of applications and that duplication of references be eliminated;

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3. That amendments to existing statutory legislation be proposed, if found to be indicated from an analyses of items 1 and 2 and any recommendations proposed thereto.

GENERAL

In order to come to grips with the matter of achieving an effective comprehensive reference machinery in the processing of applications to subdivide land adjacent to water bodies, the task force was initially aware of certain inadequacies in the current regulations covering these kinds of subdivisions which have recently given rise to difficulties in coming to favorable decisions on such applications.

In the past, the prevailing approach to resort subdivision has been for an owner of land to maximize the number of parcels that he believes his land can accommodate for his own financial benefit. In so doing, it has also been claimed that this would maximize the number of cottages that could be accommodated and hence people who could enjoy such an environment. However, research has indicated that the maximization of the number of cottages is not necessarily desirable. It could and has, caused local congestion of land and water, added pollutants to some of our lakes already retaining a high percent of polluted water. In addition, processing staff have been unable to thoroughly research more recent applications for such subdivisions, many of them of extraordinary size and number of parcels due to a lack of available information and the inability to do field research on the ground in the winter season.

Proposals outlined later in this report therefore, can only be made on the basis of an understanding of planning principles, in

the form of guidelines, that can be enunciated for this form and kind of development; the location of resort subdivisions and minimum parcel dimensions therein geared to the capacity of the land and the lake to support outdoor recreation as established by the Canada Land Inventory; the design of the subdivision itself which would tend to make the development more complementary to the environment, and the essential provision of public roadway access to our lakes.

These four elements can be spelled out more fully thus:

1. Planning principles

   A. Environment oriented

      (i) the retention of a natural environment along all shorelands insofar as it is possible to design the subdivision both as to size and quality to be compatible with this environment;

      (ii) the provision of environmental buffer areas between front cottage parcels and the bed and shore of the water body as public open space to prevent pollution and shoreline erosion and also to provide public passage along the shore;

      (iii) the determination of land use in accordance with the capability of that land and water to support various recreational uses.

   B. Development oriented

      (i) prohibit development which may adversely affect the public resource;

      (ii) ensure that adequate public shoreland, park reserve and public road access is preserved to satisfy both present and future requirements;

(iii) ensure developments by the private sector to be of lasting quality through long-range planning and the establishment of minimum development standards;

(iv) establish lateral buffer areas to minimize man-made damage to the recreation resource;

(v) prohibit development which could endanger the lives or property of people, ie. no development in flood plains or near edges of escarpment, etc;

(vi) put the general public interest ahead of private interests where conflicts arise but not to the point of exclusion of the private rights of the individual.

2. Location of Resort Subdivisions and Site Standards

A. Subdivisions not to be permitted on land adjacent to water bodies where the land is classified by the Soils Division, Research Council of Alberta, as being

(i) poorly drained;

(ii) subject to periodic flooding; or

(iii) imperfectly drained unless proposals for adequate drainage are to be made and shall be a condition of approval of the subdivision.

B. In the ideal, subdivisions to be located only in accordance with a long-range development plan for all land circumscribing the shores of a water body to a depth back from the water's edge averaging say one-half mile in extent. Whilst there is

considerable material available with respect to the physical aspects of most lakes in Alberta, there is little information concerning the degree or quantity of development of different kinds which can be accommodated by the lake itself. When lakeshore development is to be dealt with, then the lake recreational capacity should be determined in addition to the pure supply and demand for lakeshore parcels. Since the Canada Land Inventory information is largely land based, there is a pressing need to develop a detailed classification of lakes to establish each lake's capability to sustain various levels and kinds of water use. Capacity is quantitative and deals with the amount of use which a given lake can accommodate without destroying its land and water quality and other characteristics which attracted development in the first place. The Provincial Planning Branch has embarked on a pilot study of the land circumscribing Moose Lake with the object of producing a long-range development plan for this land. An interim planning report on the progress of such study of Moose Lake is appended to this report as Appendix A

C. Site Criteria and Standards

The seven class rating scale established by the Canada Land Inventory - land capability classification for outdoor recreation - to indicate the relative

quantity of recreation which may be generated and sustained per unit area of land per year under perfect market conditions related to the four subclasses of specific uses as indicated by present popular preferences, ie. Beach (B) Organized camps (K), Wildlife (Waterfowl)(W) and Family boating (Y) at a higher order of significance than cottaging (N) have been developed to provide suitable criteria with respect to:

(i) the width of the undeveloped environmental buffer - the distance back from and perpendicular to the bed and shoreline to the nearest development fronting onto the water body along the entire shoreline of the subdivision or development;

(ii) the minimum width of parcels which front towards the water body;

(iii) the minimum width of parcels which do not front towards the water body;

(iv) the minimum depth of parcels; and

(v) the minimum area of parcels.

Recommendations to amend The Subdivision and Transfer Regulation to include the above criteria and standards therefrom are included in the last section of this report in table format under the sub-heading of "Recommendations".

3. Subdivision Design

(i) Subdivision design should provide for convenient

and direct public access to the shoreland;

(ii) All parcels to be sited between the bed and shore and the main access road to the rear;

(iii) Where the topography of the land permits, it is recommended that the subdivsiion be designed on the basis of 'clusters of development' or 'hammerhead development' with local access from cul-de-sacs or loops. The linear subdivision is normally from a design that wastes land and prevents those parcels in strips to the rear having almost no view of the water body. Linear development can only be recommended where the quantity and depth of and shape of the land being subdivided precludes any other basis of design;

(iv) Buffers of at least 100 feet in width should separate adjacent subdivisions as well as individual blocks or clusters within a single subdivision;

(v) (a) In all proposed subdivisions consisting of 10 parcels or more the task force recommends that the applicant be required to obtain the services of a competent planning consultant to execute the design; or

(b) In all proposed subdivisions consisting of less than 10 parcels, the approving authority, in its discretion, may require the applicant to obtain the services of a competent planning consultant to execute the design.

4. Public Road Access

(i) There should be access to each subdivision by an all-weather public roadway linking up the subdivision with the provincial and local highway network and if the roadway or part thereof does not exist, or if the right-of-way for the roadway exists but is not constructed, the construction of such roadway should be a condition of approval of the subdivision and be the subject of an agreement to be made between the applicant and the council pursuant to section 17 of The Subdivision and Transfer Regulation.

(ii) Where the access to the proposed subdivision is to be by means of a public roadway either perpendicular to or paralleling the lake shoreline, such roadway shall be located and constructed not closer than 1500 feet to the bed and shoreline or such greater distance, as in its discretion the approving authority may determine, unless the principal purpose of it is to provide direct access to the bed and shore.

note: the term 'bed and shore' refers to a line drawn roughly parallel to the bank of the shore and is deemed to separate Crown 'land-water' from private or public shoreland.

PROCESSING OF APPLICATIONS AND REFERRAL MACHINERY

Under The Subdivision and Transfer Regulation, upon receipt of an application to subdivide by the subdivision approving authority, it has been and is obligatory for the authority to refer the application to the local council of the municipality in which the land is situated for comments on the proposal. Also, reference is made to the Department of Highways and Transport when the proposals lie within 1000 feet of a highway; to the Department of Lands and Forests when the proposals lie adjacent to bodies of water and to Alberta Government Telephones, all for comments. In addition, the subdivision approving authority may also refer the application to any other council, authority, local health agency or utility operator whose interests in the opinion of the approving authority may be affected. It is admitted that this system has its drawbacks. Often the applicant does not supply enough information in his application for the above agencies and authorities to make complete comments and the multiplicity of individual references delays the processing time in which the subdivision approving authority eventually makes its decision on the application. The number of references have increased considerably over the last two years and particularly since the establishment of the Department of the Environment. Authorities are encountering administrative difficulties, particularly when some references appear to be in conflict with one another and site inspections are duplicated or even triplicated.

Again, in order for some referral agencies to make appropriate comments, considerable research has had to be done by the agency, involving time and work loads.

It is the opinion of the task force that the Government should not be performing consulting services to the would-be subdivider of

land adjacent to water bodies. The onus for this should be put on the owner/developer/subdivider to supply the necessary information listed below with his application to subdivide. To enable him to supply most of this information, he would have to seek private consulting services from professional practising planners, engineers and surveyors.

To do so would possibly involve the developer in some personal expense, which he would attempt to reconcile with the proceeds he would receive from the sale of parcels in the subdivision should it be approved. To bona fide developers who obviously would not be prepared to go to such lengths of expense unless there was some general surety that the plans of subdivision would utlimately receive some form of official approval, and to remedy some of the difficulties of the present referral system, the task force therefore suggests the following method be used in the processing of such applications by the statutory authorities.

The method involves two phases: the first, the 'notice of intent' phase followed by the 'submission in detail' phase.

The 'notice of intent' phase

The original application in the form of a 'notice of intent' is submitted to the approving authority and would contain basic material and information, including a draft plan or diagram of the proposed subdivision showing number and disposition of parcels and the internal roadway system, the direct public roadway access to the proposed subdivision, the number and amount of reserve parcels and the concurrence of the plan generally with the provisions of The Subdivision and Transfer Regulation as they relate to recreational* subdivisions; and a brief statement on the soil conditions, intended supply of water, sewage disposal, solid waste disposal, accessibility, etc. On receipt of the notice of intent package, the subdivision approving authority would determine

* The task force recommends the use of the label 'recreational' to replace the corresponding label 'resort' as now found in The Subdivision and Transfer Regulation.

the feasibility or otherwise of the application on the basis of

(i) the general planning and design concept

(ii) the suitability of the area in question for subdivision; and

(iii) the compliance of the proposed plan generally to any adopted regional plan, general plan, zoning bylaw and The Subdivision and Transfer Regulation.

The determination of the feasibility or otherwise of the proposed subdivision by the approving authority would be conveyed to the applicant by means of a letter of notification.

The subdivision approving authority, in issuing its letter of notification would state its requirements for more detailed information to be provided as listed on pages 15 and 16 together with a fair copy plan to be prepared by professional consultants together with a report covering all aspects of the proposals and the intended installation of facilities, use of municipal services. This procedure would not require significant expenditures to be made by an applicant on a proposal and could be refused on the basic concepts of the proposed plan of subdivision by notifying him of the non-feasibility of the proposals. However, this would not take away the applicant's right to proceed with the preparation of the second phase of his material. In this count, there is however, every likelihood of the application being formally refused by the approving authority.

The 'submission in detail' phase

It is recommended that for the second phase, a small referral system or committee be established and manned by representatives from the following government departments:

Department of Municipal Affairs
Provincial Planning Branch

Department of the Environment*

Department of Highways and Transport

Department of Lands and Forests

Department of Agriculture

Department of Telephones and Utilities

Department of Industry and Commerce

Department of Health and Social Development

Regional planning commissions where relevant

The committee could meet formally every two weeks if business warranted it.

Upon the receipt by the approving authority of the fair copy plan, reference would be made by the authority to the referral committee and to local government authorities and public utility companies such as the council of the municipality in which the land is situated and to the local health unit. Comment and recommendation would be made by the above back to the approving authority in order for the authority to arrive at and make its final decision on the application.

It is recommended that should an application to subdivide be approved, subject to conditions in which public works are required to be constructed at the owner's/developer's expense, that the agreement between him and the local council be also covered by a reasonable performance bond with the council to ensure fulfillment of the conditions of approval and the terms of the agreement.

INFORMATION TO BE SUPPLIED BY THE
APPLICANT WITH HIS APPLICATION TO SUBDIVIDE

In the past, although the statutory application form provided space and 'boxing' for the applicant to include a number of technical items of information concerning his land, such as the soil quality, angles of slope, the existence or availability of water on site or adjacent thereto, public utilities, and so on, many times this information was not supplied and it was left to the subdivision approving authority to supply it either by site inspection or by requesting another government department to elicit the information using the existing referral system. Although subdivision approving authorities have been tightening up on this lack of infomration by the applicant himself by refusing to accept the application as in its 'complete and final form' unless the information is included, the task force felt that the format of the current application forms are not adequate to achieve this purpose and that consideration should be given to preparing a new form, possibly of two sheets in size.

The task force believes that it should not be a necessary function of a referral agency of government to supply certain kinds of consulting services concerning specific land characteristics solely for the benefit of a private owner of land in order for him to be able to prepare or have prepared a comprehensive application with more assurance of eventual approval of his proposals. The onus is on the owner/developer to provide such information from whatever source he can, including the hiring of a qualified consultant and that this information be included in his total application to the subdivision approving authority.

The task force agreed that it was essential for an applicant to provide at least the following information as part of his total application:

1. the availability and suitability of water on site, supported by a qualified consultant's report;
2. the intended sewage disposal system contemplated according to the existing soil conditions, also supported by a qualified consultant's report;
3. the arrangements for solid and liquid waste disposal, supported by a letter from the municipality accepting such arrangements;
4. the availability of fire and police protection or what provisions are to be made to achieve such protections;
5. information in respect to the provision of gas and power; a letter indicating in principle the arrangements with the appropriate utility company to be made by the applicant, should be provided;
6. information concerning surface drainage run-off to be provided and supported by a professional consulting engineer's report;
7. information covering foundation conditions is to be provided and supported by a report of a professional engineer;
8. information covering groundwater conditions to a depth of 20 feet below the surface of the land to be provided and supported by a report of a professional engineer;

9. a letter from the District Engineer, Department of Highways and Transport, stating that the proposed provision, construction and maintenance of all access and internal roads including the length of such access roads leading to the site of the subdivision to be constructed or improved is feasible and satisfactory;
10. evidence as to necessary school accommodation would be available for the use of families to be resident in the proposed subdivision.

Recommendations to amend The Subdivision and Transfer Regulation to cover these and other items are as follows.

PROPOSED AMENDMENTS TO
THE SUBDIVISION AND TRANSFER REGULATION (Item 3 of the terms of reference)

The task force recommends that the following amendments be considered to be made to The Subdivision and Transfer Regulation in addition to retaining sections 55 - 58 inclusive of The Regulation dealing with resort subdivisions where there is no conflict with the following:

1. Where land adjacent to a lakeshore or other body of water is to be subdivided, a strip of land not less than 100 feet in width along the whole water frontage of the land shall be provided and dedicated to public access as per Table 1.
2. (a) In a subdivision which is not served or is not intended to be served by a public water and/or sewer systems, each parcel shall have
(i) a minimum width of 100 feet;

(ii) a minimum area of not less than 20,000 square feet or such greater areas as shall be determined by the subdivision approving authority;

(b) In a subdivision which is served or is intended to be served by a public water system, each parcel shall have

(i) a minimum width of 75 feet;

(ii) a minimum area of not less than 10,000 square feet or such greater area as shall be determined by the subdivision approving authority;

3. All subdivisions adjacent to lakes or other bodies of water shall be effected by plan of survey;

4. All subdivisions adjacent to lakes or other bodies of water shall show contours at intervals of not more than 5 feet on the proposed plan of survey forming part of the application to subdivide;

5. All access roads and internal roads within the subdivision shall be provided and constructed at the expense of the owner and/or developer to the specification and standards of the local district engineer;

6. Information required to be included in an application to subdivide land adjacent to water bodies to be provided by the applicant shall include, in addition to that already requested on the application form:

(i) the provision, availability and suitability of water on the site and a commitment to maintain any common 'public' water wells or systems after installation;

(ii) the intended method of providing common 'public' sewage facilities to each proposed parcel and a commitment to maintain such after installation;

(iii) arrangements to be made to effect solid and liquid waste collection and disposal;

(iv) arrangements to be made for the provision of police and fire protection;

(v) written confirmation by the appropriate utility company to the applicant with respect to the availability of gas and power that can be delivered to the site;

(vi) adjacent land use and surface characteristics of it within one-half mile of the location of the proposed subdivision;

note: an application that does not include the above minimum information cannot be deemed to be a complete application.

7. That there be a maximum period of time of 120 days measured from the date of receipt of an application in its complete and final form to subdivide land to the date on which the subdivision approving authority makes its decision on the application.

note: It should be noted in this regard that section 20 (2) of The Planning Act providing for an appeal to the Provincial Planning Board by an applicant on the grounds of 'deemed refusal' whose application to subdivide has not been decided upon by the subdivision approving authority within a period of sixty days from the date of receipt of the application in its complete and final form by the subdivision approving authority, would have to be amended insofar as subdivisions adjacent to water bodies apply. Until such an amendment can be effected, it is recommended that an arrangement would have to be made with the Provincial Planning Board to request it to table any such appeal from this kind of subdivision if such an appeal is made to it after sixty days from the date of receipt of the application has lapsed, until such time as the subdivision approving authority has been able to make its decision or when 120 days have elapsed, whichever date comes first.

Class of Lake (C.L.I.)	Subclasses (features)	Minimum Depth of Protection Area	Minimum Width of Parcel When Fronting on Lake	Minimum Width of Parcel When Not Fronting on Lake	Minimum Depth of Parcel	Minimum Area of Parcel
1	All subclasses	no subdivision	within 3000 ft.	of bed and	shore line	
2	Dominant subclasses B, K & Y	2,000 ft.	100 ft.	100 ft.	200 ft.	20,000 sq.ft.
	Dominant/Subordinate N (except when B, K, & Y are dominant)	300 ft.	100 ft.	100 ft.	200 ft.	20,000 sq.ft.
3	Dominant subclasses B, K & Y	500 ft.	100 ft.	100 ft.	200 ft.	20,000 sq.ft.
	Dominant/Subordinate N (except when B, K & Y are dominant)	100 ft.	100 ft.	100 ft.	200 ft.	20,000 sq.ft.
4	All subclasses	~~no subdivision~~ 100 ft	within 3000 ft. 200 ft.	of bed and 100 ft	shore line 200 ft	20,000
5	Dominant/Subordinate N (except when W is dominant)	100 ft.	200 ft.	100 ft.	200 ft.	20,000 sq.ft.
	All other subclasses	no subdivision	within 3000 ft.	of bed and	shore line	
6	All subclasses	no subdivision	within 3000 ft.	of bed and	shore line	
7	All subclasses	no subdivision	within 3000 ft.	of bed and	shore line	

note: The purpose of the protection area which runs roughly parallel to the shoreline and is located opposite all beaches as designated in the C.L.I. is to prevent pollution of the lake water and to provide users with public passage along the shoreline. In all cases where the protection area does not exceed 100 ft. in depth it is intended to be reserve land dedicated by the owner upon the registration of his plan of subdivision. Where the protection area exceeds 100 ft. in depth, a strip of land located within the protection area and measured back from the bed and shore line to a maximum depth of 100 ft. would be similarily dedicated reserve land. The residue of such protection areas would represent land upon which the Crown would have first call to purchase originally by negotiation or by expropriation. Should the Government no require such residual land, it would remain under the original ownership but no building development would be allowed to be erected on it short of small beach houses and boat sheds.

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All other subclasses	no subdivision				
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